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**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Parts 52 and 81**

**[EPA-R09-OAR-2012-0877;9901-29-Region9]**

**Approval and Promulgation of Implementation Plans; Designation of Areas for Air Quality Planning Purposes; State of California; PM<sub>10</sub>; Redesignation of Sacramento to Attainment; Approval of PM<sub>10</sub> Redesignation Request and Maintenance Plan for Sacramento**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** EPA is approving the State of California's request to redesignate the Sacramento nonattainment area to attainment for the 24-hour particulate matter of ten microns or less (PM<sub>10</sub>) National Ambient Air Quality Standard (NAAQS). EPA is also approving the PM<sub>10</sub> maintenance plan and the associated motor vehicle emissions budgets for use in transportation conformity determinations necessary for the Sacramento area, and the attainment year emissions inventory submitted with the plan.

**DATES:** This final rule is effective on [Insert date 30 days after the publication date].

**ADDRESSES:** EPA has established a docket for this action: Docket ID No. EPA-R09-OAR-2012-0877. Generally, documents in the docket for this action are available electronically at [www.regulations.gov](http://www.regulations.gov) and in hard copy at EPA Region IX, 75 Hawthorne Street, San Francisco, California. While all documents

in the docket are listed at [www.regulations.gov](http://www.regulations.gov), some information may be publicly available only at the hard copy location (e.g., copyrighted material, large maps), and some may not be publicly available in either location (e.g., CBI). To inspect the hard copy materials, please schedule an appointment during normal business hours with the contact listed in the **FOR FURTHER INFORMATION CONTACT** section.

**FOR FURTHER INFORMATION CONTACT:** John Ungvarsky, Air Planning Office (AIR-2), U.S. Environmental Protection Agency, Region IX, (415) 972-3963, [ungvarsky.john@epa.gov](mailto:ungvarsky.john@epa.gov).

**SUPPLEMENTARY INFORMATION:** Throughout this document, whenever "we," "us," or "our" is used, we mean EPA. This supplementary information section is arranged as follows:

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#### **I. Summary of today's final action**

Under Clean Air Act (CAA or "the Act") section 107(d)(3)(D), EPA is approving the State's request to redesignate the Sacramento PM<sub>10</sub> nonattainment area to attainment for the 24-hour PM<sub>10</sub> National Ambient Air Quality Standard (NAAQS

or "standard"). We are doing so based on our conclusion that the area has met the five criteria for redesignation under CAA section 107(d)(3)(E): 1) that the area has attained the 24-hour  $PM_{10}$  NAAQS in the 2010-2012 time period and that the area continues to attain the  $PM_{10}$  standard since that time; 2) that relevant portions of the California state implementation plan (SIP) are fully approved; 3) that the improvement in air quality is due to permanent and enforceable reductions in emissions; 4) that California has met all requirements applicable to the Sacramento  $PM_{10}$  nonattainment area with respect to section 110 and part D of the CAA; and 5) that the  $PM_{10}$  *Implementation/Maintenance Plan and Redesignation Request for Sacramento County* (October 28, 2010) ("Sacramento  $PM_{10}$  Maintenance Plan" or "Plan")<sup>1</sup> meets the requirements of section 175A of the CAA.

In addition, under CAA section 110(k)(3), EPA is approving the Sacramento  $PM_{10}$  Maintenance Plan as a revision to the California SIP. EPA finds that the maintenance demonstration shows how the area will continue to attain the 24-hour  $PM_{10}$  NAAQS for at least 10 years beyond redesignation (i.e., through 2023), and that the contingency provisions describing the actions that the Sacramento Metropolitan Air Quality Management District

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<sup>1</sup> See letter, James N. Goldstene, Executive Officer, to Jared Blumenfeld, Regional Administrator, EPA Region 9, dated December 7, 2010, with attachments.

(SMAQMD) will take in the event of a future monitored violation meet all applicable requirements for maintenance plans and related contingency provisions in CAA section 175A. EPA is also approving the motor vehicle emissions budgets (MVEBs) in the Sacramento PM<sub>10</sub> Maintenance Plan because we find that the MVEBs meet the applicable transportation conformity requirements under 40 CFR 93.118(e). Finally, EPA is approving the 2008 emissions inventory included in the Sacramento PM<sub>10</sub> Maintenance Plan as the attainment year emissions inventory because it meets the requirements of CAA section 172(c)(3).

EPA is finalizing these actions because they meet the requirements of the CAA, its implementing regulations, and EPA guidance for such plans and budgets.

## **II. Background**

On July 24, 2013 (78 FR 44494), EPA issued a notice of rulemaking proposing to approve California's request to redesignate the Sacramento County area to attainment for the 24-hour PM<sub>10</sub> standard, as well as proposing to approve California's ten-year ozone maintenance plan for the area, the MVEBs, and the 2008 emissions inventory as the attainment year emissions inventory as revisions of the California SIP.<sup>2</sup> The proposed

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<sup>2</sup> In today's final rule, EPA is noting a minor error that appeared in the July 24, 2013 (78 FR 44494) notice of proposed rulemaking (NPR) published in the Federal Register. The NPR included a table formatting error that resulted in Table 5 (see 78 FR 44506) mistakenly displaying two columns for 2022 PM<sub>10</sub> emissions and no column for 2022 NO<sub>x</sub> emissions. The second column in Table 5

rulemaking set forth the basis for determining that California's redesignation request meets the CAA requirements for redesignation for the 24-hour PM<sub>10</sub> standard. The proposed rulemaking provided an extensive background on the 24-hour PM<sub>10</sub> standard and its relationship to historical air quality in Sacramento County. The proposed rulemaking also described the complete, quality-assured, and certified air quality monitoring data for Sacramento County for 2010-2012 showing that this area attained the 24-hour PM<sub>10</sub> standard. Preliminary data available to date for 2013 are consistent with continued attainment of the 24-hour PM<sub>10</sub> standard.

### **III. What comments did EPA receive on the proposed rule?**

EPA's proposed rule provided a 30-day public comment period. During this period, we did not receive any comments opposing the proposed rule.

### **IV. What actions is EPA taking?**

Based on our review of the Sacramento PM<sub>10</sub> Maintenance Plan submitted by the State, air quality monitoring data, and other relevant materials, EPA finds that the State has addressed all the necessary requirements for redesignation of the Sacramento nonattainment area to attainment of the PM<sub>10</sub> NAAQS, pursuant to CAA sections 107(d)(3)(E) and 175A.

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actually contains data for 2022 NO<sub>x</sub> emissions, not data for 2022 PM<sub>10</sub> emission. Table 5, footnote "a" reference to the information in the Sacramento PM<sub>10</sub> Maintenance Plan is correct.

First, under CAA section 107(d)(3)(D), we are approving CARB's request, which accompanied the submittal of the Sacramento PM<sub>10</sub> Maintenance Plan, to redesignate the Sacramento PM<sub>10</sub> nonattainment area to attainment for the 24-hour PM<sub>10</sub> NAAQS. We are doing so based on our conclusion that the area has met the five criteria for redesignation under CAA section 107(d)(3)(E). Our conclusion is based on our determination that the area has attained the 24-hour PM<sub>10</sub> NAAQS; that relevant portions of the California SIP are fully approved; that the improvement in air quality is due to permanent and enforceable reductions in emissions; that California has met all requirements applicable to the Sacramento PM<sub>10</sub> nonattainment area with respect to section 110 and part D of the CAA; and is based on our approval of the Sacramento PM<sub>10</sub> Maintenance Plan as part of this action.

Second, in connection with the Sacramento PM<sub>10</sub> Maintenance Plan and EPA's analysis showing maintenance through 2023, EPA finds that the maintenance demonstration showing how the area will continue to attain the 24-hour PM<sub>10</sub> NAAQS for 10 years beyond redesignation (i.e., through 2023) and the contingency provisions describing the actions that SMAQMD will take in the event of a future monitored violation meet all applicable requirements for maintenance plans and related contingency provisions in section 175A of the CAA. EPA is also approving the

MVEBs in the Sacramento PM<sub>10</sub> Maintenance Plan because we find they meet the applicable transportation conformity requirements under 40 CFR 93.118(e). Lastly, EPA is approving the 2008 emissions inventory, which serves as the Sacramento PM<sub>10</sub> Maintenance Plan's attainment year emissions inventory, as satisfying the requirements of section 172(c)(3) of the CAA.

#### **V. Statutory and Executive Order Reviews**

Under the CAA, redesignation of an area to attainment and the accompanying approval of a maintenance plan under section 107(d)(3)(E) are actions that affect the status of a geographical area and do not impose any additional regulatory requirements on sources beyond those imposed by State law. Redesignation to attainment does not in and of itself create any new requirements, but rather results in the applicability of requirements contained in the CAA for areas that have been redesignated to attainment. Moreover, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve State choices, provided that they meet the criteria of the Clean Air Act. Accordingly, these actions merely approve a State plan and redesignation request as meeting federal requirements and do not impose

additional requirements beyond those by State law. For these reasons, these actions:

- Are not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- Do not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Are certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Do not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4);
- Do not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Are not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Are not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Are not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995



(15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and

- Do not provide EPA with the discretionary authority to address disproportionate human health or environmental effects with practical, appropriate, and legally permissible methods under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the State, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the Federal Register. A major rule cannot take effect until 60 days after it is

published in the Federal Register. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by [Federal Register: Insert date 60 days after the publication date]. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements (see section 307(b)(2)).

#### **List of Subjects**

*40 CFR Part 52*

Environmental protection, Air pollution control,  
Incorporation by reference, Intergovernmental relations,  
Nitrogen dioxide, Particulate matter, Reporting and  
recordkeeping requirements, Sulfur dioxide.

40 CFR Part 81

Environmental protection, Air pollution control, National parks, Wilderness areas.

Dated: September 12, 2013.      Jared Blumenfeld,  
Regional Administrator,  
Region IX.

Part 52 Chapter I, title 40 of the Code of Federal Regulations  
is amended as follows:

**PART 52—[AMENDED]**

1. The authority citation for Part 52 continues to read as  
follows:

**Authority:** 42 U.S.C. 7401 *et seq.*

**Subpart F—California**

2. Section 52.220 is amended by adding paragraph (c)(431) to  
read as follows:

**§ 52.220 Identification of plan.**

\* \* \* \* \*

(c) \* \* \*

(431) A plan was submitted on December 7, 2010, by the  
Governor's designee.

(i) [Reserved]

(ii) Additional materials

(A) Sacramento Metropolitan Air Quality Management District  
(SMAQMD).

(1) PM<sub>10</sub> Implementation/Maintenance Plan and Redesignation  
Request for Sacramento County, including motor vehicle emissions  
budgets (MVEBs) and attainment year emission inventory.

(2) SMAQMD Resolution Number 2010-046, dated October 28, 2010.  
"Sacramento Metropolitan Air Quality Management District PM<sub>10</sub>

Implementation/Maintenance Plan and Redesignation Request for Sacramento County," including attainment year emissions inventory and MVEBs for 2012 and 2022.

(B) State of California Air Resources Board (CARB)

(1) CARB Resolution Number 10-37, dated November 18, 2010.

"Adoption and Submittal of the PM10 Implementation/Maintenance Plan and Redesignation Request for Sacramento County," including attainment year emissions inventory and MVEBs for 2012 and 2022.

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**PART 81- [Amended]**

3. The authority citation for part 81 continues to read as follows:

**Authority:** 42 U.S.C. 7401 *et seq.*

Subpart C—[Amended]

4. Section 81.305 is amended in the table for "California-PM-10" by revising the entry under "Sacramento County" to read as follows:

**§ 81.305 California.**

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California— PM-10

Designated area	Designation		Classification	
	Date	Type	Date	Type
* * *	*	*	*	*

Sacramento County	[INSERT DATE 30 DAYS FROM THE DATE OF PUBLICATION IN THE FEDERAL REGISTER]	Attainment		
*	*	*	*	*

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